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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GANEY, STEVEN J

ART UNIT PAPER NUMBER

3752

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,705

Applicant(s)

MILLER ET AL.

Examiner

Steven J. Ganey

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Receipt is acknowledged of the amendment filed on November 7, 2005, which has been fully considered in this action.

2. The indicated allowability of claims 10-13 are withdrawn in view of the newly discovered reference to Rogers et al. Rejections based on the newly cited references follow.

Claim Objections

3. Claims 16-18 are objected to because of the following informalities: Claim 16, line 3, "said building" lacks antecedent basis and appears that it should be --said object--. Claim 17, line 2, "the water" lacks antecedent basis since claim 15 does not recite what the superabsorbent polymer is hydrated with. Claim 18, line 1, the numeral "15" should be changed to --17-- in order to provide proper antecedent basis for "said steam layer". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 1, the applicant positively recites the pockets “contain hydrated superabsorbent polymer” and “a layer of steam at said surface of said fabric”, however, these limitations are only disclosed as being in use conditions when a person will spray the unhydrated superabsorbent polymer in the pockets with water and only after the barrier is subject to fire will the water evaporate to have a layer of steam at the surface of the fabric. The claim does not recite that these limitations are when the barrier is in use; the applicant only argues such recitations. In addition, it appears from the claim that the barrier is provided with the steam on the surface of the fabric as a separate element, just as the pockets are provided with the unhydrated superabsorbent polymer, however, this is not the case. Steam is generated only as a result from the heat directed on the barrier from a fire. Also, the barrier would not be able to be used properly if the pockets already contained hydrated absorbent polymer since the weight from the hydrated absorbent polymer would be too heavy and difficult to manipulate or move the barrier.

6. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the recitation of “a layer of steam at said surface of said fabric” is indefinite since is not clear how the steam is provided and as disclosed it is not provided as a separate element but is instead a direct result of exposure from an external heat source (i.e. fire) which is not provided.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-9, 14, 15, 17, 18 and 43-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bumbarger.

Bumbarger discloses a barrier comprising a pair of fabric sheets 12/16(sheet 12 is water permeable) joined together to form pockets, which are filled with a superabsorbent polymer, except for the number of pockets per square foot, the volumetric capacity range of each pocket and the amount of polymer per cubic inch. Note col. 2, lines 39-67 through col. 3, lines 1-11, col. 5, line 55-67, col. 7, line 50-67 through col. 8, line 12 and col. 9, lines 16-30. Also, see Figures 5 and 6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the number of pockets per square foot, the volumetric capacity range of each pocket and the amount of polymer per cubic inch as claimed, since Bumbarger teaches that the quilted seams form pockets for the absorbent particles and therefore, the more pockets per square foot the greater protection would be provided. Bumbarger controls the amount of polymer proportional to the size of the pocket.

As to the recitation of a layer of steam at said surface of said fabric in claim 1 and claims 17, 18, 49 and 50, note column 6, lines 14-24, where it discloses that the liquid (i.e. water) within the pockets begins to vaporize (i.e.: form steam) and pass through the sheet 12.

As to claim 2, such a superabsorbent polymer is well known and would have been a matter of obvious design choice.

As to claims 15, 17, 18, 49 and 50 the apparatus of Bumbarger is capable of performing the method steps as claimed.

9. Claims 10-13, 16 and 19-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bumbarger in view of Rogers et al.

Bumbarger discloses all the featured elements of the instant invention, as discussed above, except for the means for fastening or fasteners for the barrier. Roger et al shows fire barriers 18/19 with fastening means/fasteners 17 for connecting the barriers together and for connecting the barriers to an object or building to be protected. Note that Bumbarger discloses that it can be used as a blanket to provide protection from fire, see col. 1, lines 54 and 55 and col. 9, lines 23-30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide fasteners for the barrier of Bumbarger, as taught by Rogers et al, since with such a modification the barriers could be connected together in multiple formations such that different sized objects or buildings or multiple people at one time could be protected by the barriers.

Response to Arguments

10. Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new grounds of rejection.

Art Unit: 3752

Conclusion


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Diacos shows a fire blanket with fasteners. Pierce, Jr. teaches that when a fire blanket is saturated with water, steam emanates from the blanket when exposed to fire.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is (571) 272-4899. The examiner can normally be reached on Monday, Tuesday, Wednesday, and Thursday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (571) 272-4919. The fax phone number for this Group is (571) 273-8300.

sjg

1/23/06


STEVEN J. GANEY
PRIMARY EXAMINER
1/23/06